

# Town of Maynard

## Procedure for use of Ch 26: Preservation of Historically Significant Buildings By-Law (Approved by Maynard Historical Commission July 2017)

**1. Authority.** The voters of Maynard approved a “Bylaw for the Preservation of Historically Significant Buildings”—also known as the Demolition Delay (DD) Bylaw—at the January 2017 Special Town Meeting. The approved bylaw is now Chapter 26 of the Town Bylaws.

**2. Purpose.** The DD Bylaw was enacted for the purpose of preserving and protecting Historically Significant Buildings (HSBs) within the Town of Maynard which constitute or reflect distinctive features of the architectural, cultural, economic, political, or social history of the Town and to limit the detrimental effect of demolition of such buildings on the character and value of real property resources of the Town.

**3. Intent.** The approval of building permits for demolition is subject to the requirements of the DD Bylaw. The intent of the DD Bylaw is to (a) encourage owners of “Preferably Preserved” buildings to seek out alternative options that will preserve, rehabilitate, or restore such buildings, and (b) ensure that residents of the Town are alerted to impending demolitions of HSBs. By preserving and protecting HSBs, the DD Bylaw promotes the public welfare by making the Town a more attractive and desirable place in which to live and work.

To achieve these purposes, the Maynard Historical Commission is authorized to advise the Building Commissioner with respect to building permit applications for demolition. The Commission has issued this procedure to provide additional details about the process of applying for a permit to demolish for HSBs.

**4. Definitions.** The following terms are used in this policy:

Applicant: Any person or entity who files an application for a building permit to demolish a building, including a portion of a building, within the Town of Maynard. If the applicant is not the owner of the premises upon which the subject building is situated, the owner must indicate on or with the application his/her/its assent to the filing of the application.

Application: An application for a building permit required to demolish all or a portion of a building, using the appropriate forms and procedure approved by the Historical Commission and described in this document.

Building: Any structure assembled in a fixed location, having a roof supported by columns or walls, to form a shelter for persons, animals, or property.

Building Commissioner: The person occupying the office of the Maynard Building Commissioner or the person otherwise authorized to issue building permits in the Town of Maynard.

Demolition: Any act of pulling down, destroying, removing, dismantling, or razing a building (or portion thereof) or commencing the work that results in total or substantial destruction with the intent of completing the same. For the purposes of this By-Law, substantial destruction of a building shall be defined as that demolition which results in the removal of 50% or more of the Total Gross Floor Area, measured from the exterior of the walls, as determined by the Building Commissioner. Calculation of unique structures may be based on total volume if the Building Commissioner determines that floor area is not appropriate.

Demolition Permit: *Within this by-law, a Demolition Permit is a Building Permit for Demolition.* The building permit issued by the Building Commissioner for a demolition of a building or a portion thereof, but excluding a building permit issued solely for the renovation of the interior of a building.

## **5. Designation as a “Historically Significant Building”**

A. A “Historically Significant Building” (HSB) is any building (or portion thereof) which appears on the “List of Historically Significant Buildings” (or “List”) generated by the Historical Commission. This List is maintained by the Commission, supplied to the Building Commissioner for purposes of the DD Bylaw, and part of the public record. Included on this list may be any building (or portion thereof) which:

- 1) Is listed on, or is within an area listed on, the National Register of Historic Places; or is the subject of a pending application on said National Register; or
- 2) Is included in the Historical Resources Inventory prepared by the Historical Commission, including those buildings listed for which complete surveys may be pending; or
- 3) Has previously been determined by vote of the Historical Commission to be historically or architecturally significant in terms of period, style, method of building construction or association with a recognized architect or builder or by reason of its association with a person or event of importance to the Town’s history.

B. The Historical Commission periodically reviews the List and votes on additions or deletions from said List. This vote follows a public hearing, notice of which shall be provided by mail at least fourteen (14) calendar days in advance to the owner(s) of building(s) affected thereby. A revised List is provided to the Building Commissioner promptly following such review.

C. An owner of a building may petition the Historical Commission for a determination of the building as an HSB. Within sixty (60) calendar days after the receipt of such application, the Commission shall determine whether the building should be added to the List. The Applicant for the permit shall be entitled to make a presentation to the Commission, if he or she makes a timely request in writing to the Commission. The determination by the Commission of whether a building is a Significant Building shall be made in writing, signed by the Commission, and shall be binding on the Commission for a period of 3 years from the date thereof.

**6. Designation as “Preferably Preserved.”** A “Preferably Preserved” building is any HSB (or portion thereof) which the Historical Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. Under the provisions of the DD Bylaw and the procedures outlined in this document, a “Preferably Preserved” building is subject to a twelve (12) month demolition delay period, except in the case of a building on the National Register of Historic Places, in which case it is subject to an eighteen (18) month demolition delay period.

**7. Regular Demolition Procedure.** No demolition of an HSB shall be permitted except in conformance with the provisions of the DD Bylaw.

Regular Demolition Timeline	Regular Demolition Process
<p><b>A. Submitting a Building Permit Application for Demolition</b></p> <p>Upon receipt of Building Permit application for Demolition: Building Commissioner reviews whether the structure is on “List of Historically Significant Buildings.”</p> <p>⇒ <b>If no:</b> Building Commissioner may issue building permit.</p> <p>⇒ <b>If yes:</b> Applicant must submit “Application Addendum” to Building Commissioner. Within seven (7) calendar days: Building Commissioner forwards completed application with addendum to Historical Commission.</p>	<ol style="list-style-type: none"> <li>1) Upon receipt of a Building Permit application to demolish a building (or portion thereof) on the “List of Historically Significant Buildings,” the Building Commissioner shall forward a copy thereof to the Historical Commission. No permit for demolition shall be issued at that time.</li> <li>2) An Applicant proposing to demolish a building (or portion thereof) subject to the DD Bylaw shall file with the Building Commissioner an application, using the appropriate “Building Permit or Demolition Permit Application Addendum for Designated Historically Significant Properties,” containing the following information: <ol style="list-style-type: none"> <li>a) The address containing the building to be demolished</li> <li>b) The owner's name, address and telephone number</li> <li>c) A description of the building</li> <li>d) The reason for requesting a demolition permit</li> <li>e) A brief description of the proposed reuse, reconstruction or replacement</li> <li>f) A photograph or photograph(s) of the building</li> </ol> </li> <li>3) The Building Commissioner shall within seven (7) calendar days forward a copy of the Building Permit application with Addendum to the Historical Commission.</li> </ol>

## B. Historical Commission Review

### Within fifteen (15) calendar days of receiving the Building Permit Application and Addendum:

Historical Commission determines whether building is still historically significant.

⇒ **If no:** Historical Commission notifies Building Commissioner and Applicant in writing, and building permit may be issued.

⇒ **If yes:** Historical Commission notifies Building Commissioner and Applicant in writing. No building permit may be issued, and the process proceeds to public hearing.

⇒ **If no response within 15 calendar days:** Building Commissioner may issue building permit.

- 1) The Historical Commission shall, within fifteen (15) calendar days after receipt of the application and addendum, make a written confirmation of whether the building is still considered historically significant.
- 2) If the Commission determines that the building is **no longer considered historically significant**, due to its present condition or status, the Commission shall so notify the Building Commissioner and Applicant in writing. The Building Commissioner may then issue the Building Permit. The subject building shall be removed from the List of Historically Significant Buildings and no further action taken under provisions of the DD Bylaw.
- 3) If the Commission determines that the building **remains historically significant**, the Commission shall so notify the Building Commissioner and the Applicant in writing. No Building Permit may be issued at this time.
- 4) If the Commission does not notify the Building Commissioner within fifteen (15) calendar days of receipt of the application, the Building Commissioner may then issue the building permit.

### C. Public Hearing to Determine “Preferably Preserved” Designation

**Within thirty (30) calendar days of determining that the building is still historically significant:** Historical Commission holds a public hearing to determine if the building should receive “Preferably Preserved” designation.

⇒ Notice of the public hearing is required to be sent to the Applicant and Building Commissioner fourteen (14) calendar days prior to the public hearing

⇒ **Upon closing the public hearing:** Historical Commission decides whether the building should be determined “Preferably Preserved.”

⇒ **If no:** Historical Commission notifies Building Commissioner and Applicant in writing, and building permit may be issued.

⇒ **If yes:** Historical Commission notifies Building Commissioner and Applicant in writing. No building permit may be issued during a demolition delay period of 12 months (18 months, if the building is on the National Register of Historic Places)

- 1) If the Historical Commission confirms that the building is historically significant, it shall **hold a public hearing** within thirty (30) calendar days of the written notification to the Building Commissioner. The Commission shall hold a public hearing and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) calendar days prior to said hearing. Also the Commission shall, within fourteen (14) calendar days prior to the date of said hearing, mail a copy of the notice to the Applicant and to the Building Commissioner.
- 2) The Historical Commission shall decide at the public hearing or within fourteen (14) calendar days after the public hearing whether the building should be determined “Preferably Preserved.” If agreed to in writing by the Applicant, the determination of the Commission may be postponed.
- 3) If the Historical Commission determines that the building **is not Preferably Preserved**, the Commission shall so notify the Building Commissioner and Applicant in writing. The Building Commissioner may then issue the Building Permit.
- 4) If the Historical Commission determines that the building **is Preferably Preserved**, the Commission shall notify the Building Commissioner and Applicant in writing. **No Building Permit for Demolition**

**D. Actions by Applicant after receiving notification of “Preferably Preserved” Designation**

**During the 12 (or 18) month Demolition Delay period:** The Applicant and Historical Commission will collaborate to develop and implement alternatives to demolition. If these efforts are not successful, the Historical Commission may either (a) notify the Building Commission that a Building Permit may be issued or (b) wait until the Demolition Delay period has ended.

1) During the twelve (12) month demolition delay period—except in the case of a building on the National Register of Historic Places, in which case the Demolition Delay period is eighteen (18) months—the Historical Commission will work with the Applicant to:

- a) Determine whether the applicant’s proposed demolition detracts from the historical character of the property, or
- b) Preserve, rehabilitate, re-use, re-locate, or restore the building,
- c) Locate a purchaser who would be willing to do so, or
- d) Other options appropriate for the building under consideration.

These discussions may include site visit(s) to the property under consideration.

2) If the applicant has made reasonable efforts to pursue these options, and is unsuccessful, the applicant may request that the Historical Commission notify the Building Commissioner in writing to issue the Building Permit before the end of the required Demolition Delay period. That “reasonable efforts” have been made is determined by the Commission, based on the facts and circumstances of each individual case. Generally, the Commission would look for evidence of continued unsuccessful advertisements and open houses or offers with unacceptable conditions, or structural engineering reports, conditions assessments, or other evidence of the unlikelihood or impracticability of preservation of the building.

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**E. At the end of the 12 (or 18) month Demolition Delay period:**

Building Commissioner may issue the Building Permit.

In any case, following the twelve (12) month Demolition Delay period—eighteen (18) month Demolition Delay period, in the case of a building on the National Register of Historic Places—the Building Commissioner may issue the Building Permit.

**8. Emergency Demolition Procedure**

A. Notwithstanding the foregoing provisions, if after an inspection, the Building Commissioner finds that a building subject to the DD Bylaw poses an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Commissioner may issue an emergency building permit for demolition to the owner of the building. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for the decision, which shall be forwarded to the Historical Commission in a timely manner.

B. No provision of this procedure or the DD Bylaw is intended to conflict with any obligations or rights regarding removal or demolition of dangerous or abandoned structures (see Massachusetts General Laws, Chapter 143, Sections 8-10).

**9. Penalties for “Voluntary Demolition”**

A. No building permit shall be issued with respect to any premises upon which a “Significant Building” has been voluntarily demolished in violation of the DD Bylaw for a period of two (2) years from the date of such demolition. As used herein “premises” includes the parcel of land upon which the demolished Historically Significant Building was located.

B. Upon the determination by the Historical Commission that a building is “Preferably Preserved,” the owner shall be responsible for properly securing the building to the satisfaction of the Building Commissioner. Should the owner fail to secure said building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of paragraph 9.A.

**10. Schedule of Fees.** There is no fee for review of the application by the Historical Commission. However, in certain circumstances (for example, if the applicant desires that the Building Permit be issued before the end of the required demolition delay period), the applicant may be required to pay for engineering or other reports conducted by third parties to assist the Commission in making or expediting its determination. This

does not relieve the applicant from building permit fees required by the building department.

**11. List of Historically Significant Buildings (HSBs).** A list of those buildings within the Town of Maynard which have been designated as “Historically Significant Buildings” is available:

A. Online at: <http://www.townofmaynard-ma.gov/wp-content/uploads/2010/07/mhc-historically-significant-properties-20161201.pdf>

B. At the Municipal Services Office in the lower level of the Town Building at 195 Main Street.